

## CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Joshua Richardson	Team: Squad #7	CCRB Case #: 201806460	<input checked="" type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Friday, 07/27/2018 2:58 AM	Location of Incident: [REDACTED]	Precinct: 18	18 Mo. SOL 1/27/2020	EO SOL 1/27/2020	
Date/Time CV Reported Fri, 07/27/2018 4:11 AM	CV Reported At: IAB	How CV Reported: Phone	Date/Time Received at CCRB Wed, 08/08/2018 11:05 AM		

Complainant/Victim	Type	Home Address
[REDACTED]	[REDACTED]	[REDACTED]

Witness(es)	Home Address
[REDACTED]	[REDACTED]

Subject Officer(s)	Shield	TaxID	Command
1. SGT Luis Rodriguez	02107	[REDACTED]	TB DT01
2. POM Wilfred Martinez	00988	[REDACTED]	TB DT01
3. POF Evelyn Oropezazuniga	04070	[REDACTED]	TB DT01
4. POM Kyle Ting	03691	[REDACTED]	TB DT01
5. An officer		[REDACTED]	TB DT01

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. LT Michael Blackman	00000	[REDACTED]	TB DT01
2. POM Marcin Bajko	17918	[REDACTED]	TB DT01
3. POM Edward Elvidge	02856	[REDACTED]	TB DT01

Officer(s)	Allegation	Investigator Recommendation
A.POF Evelyn Oropezazuniga	Force: Police Officer Evelyn PO Oropeza-Zuniga used physical force against § 87(2)(b)	[REDACTED]
B.SGT Luis Rodriguez	Force: Sergeant Luis Rodriguez used physical force against § 87(2)(b)	[REDACTED]
C.POM Wilfred Martinez	Force: Police Officer Wilfred Martinez used physical force against § 87(2)(b)	[REDACTED]
D.POM Wilfred Martinez	Discourtesy: Police Officer Wilfred Martinez spoke discourteously to § 87(2)(b)	[REDACTED]
E. An officer	Force: An officer used physical force against § 87(2)(b)	[REDACTED]
F.POM Wilfred Martinez	Force: Police Officer Wilfred Martinez used pepper spray against § 87(2)(b)	[REDACTED]
G.SGT Luis Rodriguez	Abuse: Sergeant Luis Rodriguez sexually humiliated § 87(2)(b)	[REDACTED]
H.POM Wilfred Martinez	Abuse: Police Officer Wilfred Martinez sexually humiliated § 87(2)(b)	[REDACTED]
I.POF Evelyn Oropezazuniga	Abuse: Police Officer Evelyn PO Oropeza-Zuniga sexually humiliated § 87(2)(b)	[REDACTED]
J.POM Kyle Ting	Abuse: Police Officer Kyle Ting sexually humiliated § 87(2)(b)	[REDACTED]

### Case Summary

On July 27, 2018, Sgt. Luis Rodriguez of Transit Bureau District 1 called the IAB Command Center generating IAB Log # 18-29239, on behalf of § 87(2)(b). The complaint was forwarded to the CCRB on August 8, 2018.

On July 27, 2018, at approximately 2:58 AM, Sgt. Rodriguez, PO Wilfred Martinez, PO Evelyn PO Oropeza-Zuniga, all of Transit Bureau District 1, were in § 87(2)(b), in Manhattan when they heard a store employee scream that § 87(2)(b) was stealing items. All three officers pursued § 87(2)(b) out of the location, grabbed him and pulled him down to the ground (**Allegations A, B, and C; Force, § 87(2)(g)**). While attempting to put § 87(2)(b) in handcuffs, PO Martinez stated, "Give me your hands motherfucker" (**Allegation D: Discourtesy, § 87(2)(g)**). During the apprehension § 87(2)(b) complained that he was punched on the face (**Allegation E; Force, § 87(2)(g)**). PO Martinez then pepper sprayed § 87(2)(b) (**Allegation F; Force, § 87(2)(g)**). After § 87(2)(b) was successfully handcuffed, PO Kyle Ting, also of Transit Bureau District 1, arrived on scene. All four officers stood near § 87(2)(b) who was laying on his side with his pants lowered to his knees exposing his buttocks and testicles. No officer attempted to help pull up § 87(2)(b)'s pants or cover his exposed private areas for approximately eight minutes until a transporting vehicle arrived on scene (**Allegations G, H, I and J; Abuse of Authority, § 87(2)(g)**). § 87(2)(b) was then transported to the TB DT01 stationhouse where his arrest was processed.

There was video footage obtained in regards to this incident. Surveillance Footage from § 87(2)(b) and also Body Worn camera footage from the officers involved were obtained by the investigation.

### Findings and Recommendations

**Allegation A: Force: Police Officer Evelyn PO Oropeza-Zuniga used physical force against § 87(2)(b)**

**Allegation B: Force: Sergeant Luis Rodriguez used physical force against § 87(2)(b)**

**Allegation C: Force: Police Officer Wilfred Martinez used physical force against § 87(2)(b)**

**Allegation D: Discourtesy: Police Officer Wilfred Martinez spoke discourteously to § 87(2)(b)**

**Allegation E: Force: An officer used physical force against § 87(2)(b)**

**Allegation F: Force: Police Officer Wilfred Martinez used pepper spray against § 87(2)(b)**

The investigation was unable to obtain a sworn statement from § 87(2)(b). Contact attempts, including phone calls and mailed letters, which were returned, were exhausted, but the investigation received no further response from him. (Board Review 25)

Surveillance footage from § 87(2)(b) captured what occurred in the location before § 87(2)(b)'s apprehension. From the 00:01-00:03 second mark, § 87(2)(b) is seen entering the location, approaching the first shelf and grabbing an item and then immediately exiting the location. From the 00:03- 00:05 second mark, PO Oropeza-Zuniga is seen running after § 87(2)(b) out of the location, followed by Sgt. Rodriguez, then PO Martinez. From the 00:06-00:10 second mark, a store employee, § 87(2)(b) is seen exiting the location. (Board Review 01)

Body-Worn Camera footage from PO Oropeza-Zuniga captured a portion of the audio during § 87(2)(b)'s apprehension. This clip is audio only and nothing can be seen. From the 00:00-00:15, PO Martinez and Sgt. Rodriguez are heard repeatedly giving § 87(2)(b) directives such as: "Let me see your other hand", and Give me your other hand". Between the 00:16-00:26, § 87(2)(b) is heard complaining that he was punched in the face and that he did not mean anything. The male officers repeatedly direct § 87(2)(b) to give them his other hand. Between the 00:27-00:31 second mark, PO Martinez is heard saying, "Give me your other hand, motherfucker. There you go. There you go." (Board Review 02)

While the investigation did not obtain a sworn statement from § 87(2)(b) the investigation was able to obtain an unverified phone statement from him. § 87(2)(b) stated that on July 27, 2018, at approximately 3:00am, he was inside of § 87(2)(b) and four police officers in plain clothes were shopping inside. § 87(2)(b) entered the store and attempted to steal candy near the door. The officers observed him and chased him outside. § 87(2)(b) followed them and stood inside, at the door, and observed the officers catch up to him just outside of the store. The officers tried to handcuff him and told him to place his hands behind his back, but § 87(2)(b) did not comply and pulled away from them and kicked at them. The officers took him to the ground, where § 87(2)(b) continued to resist by refusing to place his arms behind his back. However, the officers overpowered him and placed him in handcuffs. The officers never punched § 87(2)(b) (Board Review 08)

PO Oropeza-Zuniga testified that on July 27, 2018, at approximately 2:57am, PO Martinez, Sgt. Rodriguez and herself went into § 87(2)(b) to get water, while PO Ting went to a Subway restaurant approximately half a block down from them. While in § 87(2)(b) a white male, identified as § 87(2)(b) came into the store, and while near the entrance grabbed multiple bags of "Nice" nuts from a shelf. PO Oropeza-Zuniga heard the store manager scream put the items down, which caused PO Oropeza-Zuniga to turn around and look in § 87(2)(b)'s direction and noticed him reaching down and grabbing items from a shelf and then run out the store. PO Oropeza-Zuniga gave chase while identifying herself as a police officer. When she got outside she observed § 87(2)(b) running on the sidewalk, not too far from the entrance of § 87(2)(b) trying to run in-between two food carts that were stationary at that same corner. However, PO Oropeza-Zuniga observed that he couldn't escape that way due to a trailer hitch connecting both carts that § 87(2)(b) was unable to get over and also a parked car obstructing his pathway. § 87(2)(b) then turned around to make a left and tried to continue to run but PO Oropeza-Zuniga caught up to him and grabbed his upper body area. § 87(2)(b) continued to try and run away and flailed his arms. When Sgt. Rodriguez caught up, he and PO Oropeza-Zuniga pulled § 87(2)(b) down to the ground by his upper body. PO Oropeza-Zuniga did not recall how § 87(2)(b) landed on the ground – face first, back first, or side first and did not recall if PO Martinez caught up at this point. When § 87(2)(b) was on the ground she and Sgt. Rodriguez grabbed for his arms in an effort to put them behind his back, while stating, "Put your hands behind your back. Stop

resisting.” PO Oropeza-Zuniga didn’t recall if any officer stated, “Give me your other hand, motherfucker.” Due to a lot of screaming happening at this point, PO Oropeza-Zuniga didn’t recall if § 87(2)(b) was saying anything at that time. § 87(2)(b) continued to flail his arms, move his body and attempted to get up from the ground, but the officers were able to get him back on the ground; however, PO Oropeza-Zuniga didn’t recall what they did to do so. PO Oropeza-Zuniga continued to only grab his arms in an effort to overcome his physical resistance. She never punched § 87(2)(b) did not see any of her partners do so, and did not recall hearing § 87(2)(b) complain of being punched in the face. PO Martinez pepper sprayed § 87(2)(b) and since all the officers were in close proximity, all three of them inhaled it as well. PO Oropeza-Zuniga did not know how many bursts were used, how long the bursts were, where the pepper spray made its impact on § 87(2)(b) or if § 87(2)(b) became less resistant as a result of the pepper spray. After a while, § 87(2)(b) was successfully handcuffed- however, PO Oropeza-Zuniga did not recall the time frame from which § 87(2)(b) was pepper sprayed until he was successfully handcuffed or how long the whole apprehension lasted. PO Oropeza-Zuniga did not recall who handcuffed him, whose handcuffs were used, or what position § 87(2)(b) was in when he was handcuffed. (Board Review 03)

PO Oropeza-Zuniga was presented with her TRI report in regards to this incident: TRI § 87(2)(b). (Board Review 23) Her attention was brought to the section that documents “Force Used by MOS” where a forcible takedown is noted as ‘Yes’, and she confirmed that that was referring the pulldown move she and Sgt. Rodriguez performed on § 87(2)(b) to gain control over him. PO Oropeza-Zuniga was also presented with the above documented Body-Worn camera footage and she stated that the video is audio only because the camera was in her pants pocket at that time, due to her being in plain clothes. She stated that she took her body worn camera out of her pocket as soon as § 87(2)(b) was successfully put in handcuffs. Upon hearing the word “motherfucker”, PO Oropeza-Zuniga identified the voice as PO Martinez’s. When she heard § 87(2)(b) complained of being punched in the face, PO Oropeza-Zuniga stated that during the incident she did not recall hearing § 87(2)(b) complain of that and confirmed that she did not punch § 87(2)(b) nor did she see any officer punch § 87(2)(b) (Board Review 03)

§ 87(2)(g)

After he caught up to § 87(2)(b) Sgt. Rodriguez grabbed § 87(2)(b) by his bicep and shoulder area while telling him to put his hands behind his back and to stop but § 87(2)(b) aggressively resisted by flailing his arms and was also moving his feet and body to continue to try and run away. When they pulled § 87(2)(b) down to the ground § 87(2)(b) wedged his hands in-between his chest and the ground. Sgt. Rodriguez kept pulling § 87(2)(b) s arms in an attempt to get them behind his back, but § 87(2)(b) continued to physically resist by not giving up his arms, and also attempting to crawl away while on the ground. Besides pulling § 87(2)(b) s arms and verbally telling to stop resisting, let him see his hands, and to give them his hands, Sgt. Rodriguez didn’t do anything else physically overcome § 87(2)(b) s resistance. Sgt. Rodriguez observed his

partners also pulling for his arms. Sgt. Rodriguez never punched § 87(2)(b) never observed any officer do so, never observed any injuries to § 87(2)(b)'s face and never heard § 87(2)(b) complain of being punched in the face. Sgt. Rodriguez also never heard PO Martinez refer to § 87(2)(b) as a "motherfucker". While in close proximity to § 87(2)(b) PO Martinez took out his pepper spray and performed a one second burst on § 87(2)(b) with the stream successfully hitting § 87(2)(b) in the face area. The pepper spray was successful, in that, § 87(2)(b) stopped physically resisting and became more compliant. § 87(2)(b) was then successfully handcuffed. Sgt. Rodriguez observed § 87(2)(b) to have tears in his eyes, snot coming from his nose, as well as a red face and red eyes due to the pepper spray. (Board Review 04)

§ 87(2)(g)

PO Martinez did not observe how § 87(2)(b) was brought to the ground because when he exited Duane Reade, § 87(2)(b) was already on the ground. In addition to trying to stand back up, trying to crawl away, flailing his arms and not putting them behind his back, § 87(2)(b) also kicked his legs at officers while on the ground. PO Martinez stated to § 87(2)(b) "Please stop. Don't move. Put your hands behind your back" but did not recall if he said, "Give me your hand, motherfucker." § 87(2)(b) tried to get up, and PO Martinez stated he believed he used his hands to push § 87(2)(b) back down on the ground. Due to § 87(2)(b) initially fleeing from the officers and trying to escape being put into custody, aggressively resisting arrest by flailing his arms and kicking his legs, trying to crawl away, PO Martinez pepper sprayed him. PO Martinez was standing over § 87(2)(b) bending forward as he did this, and the stream hit § 87(2)(b)'s face. PO Martinez did not recall how long into the struggle he waited until he decided to pepper spray him. PO Martinez did not recall punching § 87(2)(b) and did not see any officer punch § 87(2)(b) complained of being punched but PO Martinez had no knowledge of that. PO Martinez and PO Oropeza-Zuniga then handcuffed § 87(2)(b) (Board Review 05)

PO Martinez was presented with the TRI Report he completed in regards to this incident: TRI § 87(2)(b). (Board Review 24) His attention was brought to the section in which it documents "Force Used By MOS"- where it says PO Martinez utilized a Forcible takedown. PO Martinez stated he did not recall exactly what that was referring to, confirmed that § 87(2)(b) was already on the ground when he exited § 87(2)(b) but stated it was most likely in regards to pushing § 87(2)(b) back down when he tried to get up during his apprehension. PO Martinez was also presented with the above documented Body-Worn camera footage. Upon hearing, "Give me your hand motherfucker", PO Martinez confirmed that the male voice belonged to him and explained that he used the word "motherfucker" because § 87(2)(b) wasn't being compliant and PO Martinez believed that cursing at uncooperative civilians, helps puts a "light bulb" into their minds that helps them become compliant. He further explained that he used it to emphasize that apprehending § 87(2)(b) was not a game and that the officers are serious. During the video, hearing § 87(2)(b) complain of being punched in the face, did not spark any recollection of him punching § 87(2)(b) or if another officer did so. (Board Review 05)





No officers testified that they punched § 87(2)(b) or observed any other officer punch § 87(2)(b) and there is no police documentation indicating that a punch was utilized. § 87(2)(g)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

**Allegation G: Abuse of Authority: Sergeant Luis Rodriguez sexually humiliated § 87(2)(b)**

**Allegation H: Abuse of Authority: Police Officer Wilfred Martinez sexually humiliated § 87(2)(b)**

**Allegation I: Abuse of Authority: Police Officer Evelyn PO Oropeza-Zuniga sexually humiliated § 87(2)(b)**

**Allegation J: Abuse of Authority: Police Officer Kyle Ting sexually humiliated § 87(2)(b)**

Body Worn camera footage from PO Oropeza-Zuniga captured what occurred right after § 87(2)(b) was successfully handcuffed. In this short clip, beginning at 2:58:21AM, from the 00:00-00:07 second mark, § 87(2)(b) is on the ground handcuffed on his knees. He then leans over onto his right side and lays on the ground in a crotched position with his pants clearly lowered to his knee area with his buttocks exposed. During this time PO Oropeza-Zuniga, who is standing behind § 87(2)(b) speaks to PO Martinez who is on the other side of § 87(2)(b) in regards to taking pictures of the items § 87(2)(b) stole. (Board Review 16)

Body-Worn camera footage from PO Martinez captured his vantage point after § 87(2)(b) was handcuffed. In this short clip, beginning at 3:00:44AM, from the 00:00-to the 00:10 second mark, the video shows PO Martinez talking over the police radio while § 87(2)(b) is laying on his right side in the same crotched position mentioned above. In the video, § 87(2)(b)'s buttocks and testicles are clearly exposed. (Board Review 17)

Body-Worn camera footage from Sgt. Rodriguez captured his vantage point after § 87(2)(b) was handcuffed. Beginning at 3:00:44, from the 00:00-00:18 mark, Sgt. Rodriguez stands in the same area as PO Martinez (as shown in above video). Two food carts are also visible, and a man is seen inside of the food cart that § 87(2)(b) is lying directly in front of. PO Oropeza-Zuniga and PO Ting are seen standing on the opposite side of § 87(2)(b) with PO Ting looking directly down at § 87(2)(b). At the 00:19 mark, Sgt. Rodriguez backs up and § 87(2)(b)'s buttocks and testicles are clearly visible as he is lying in the same crotched position mentioned above. At the 00:23 mark, a civilian is seen walking past this incident. At the 00:33, 00:58, and 1:08 marks, PO Oropeza-Zuniga clearly looks down at § 87(2)(b) (Board Review 18)

Body-worn footage from Sgt. Rodriguez captures what else happened during the wait for transport. Beginning at 3:02:05AM, from the at the 00:05 mark, PO Oropeza-Zuniga and PO Ting clearly look down at § 87(2)(b) for a few seconds. At the 00:22 mark, both PO Oropeza-Zuniga and PO Ting look down at § 87(2)(b) again. Beginning at the 00:32 mark, a civilian walks in front of Sgt. Rodriguez, and then stops to his left and PO Martinez, the civilian, and Sgt. Rodriguez,

engage in an extended conversation about what precinct the officers are from and about the civilian's cousin until the 01:14 mark. (Board Review 19)

Body-worn camera footage from PO Oropeza-Zuniga over same time period as the video above shows the exact same thing in regards to the civilian but from her vantage point. From this vantage point, it is clear that the civilian has a clear unobstructed view of § 87(2)(b) and his exposed private areas. From this video and vantage point, it also clear that § 87(2)(b)'s pants are down and to his knees. (Board Review 20)

Additional body-worn camera footage from PO Oropeza-Zuniga captures what happens right before they pick § 87(2)(b) up from the ground. Beginning at 3:05:13AM, from the 00:00-00:26 mark, § 87(2)(b) is still lying on the ground in the crotched position and his pants are still clearly down by his knee area. From the 00:27-01:27 mark, § 87(2)(b) leans up and sits on the ground still handcuffed, while the officers just stand around him and continue to wait. Beginning at the 01:28 mark, PO Oropeza-Zuniga and PO Martinez approach § 87(2)(b) and lift him up from the ground. When he is initially lifted it is clear that while § 87(2)(b) is standing his pants are still lowered. When § 87(2)(b) is finally lifted up the time is 3:06:41AM. (Board Review 21)

Body-worn camera footage from PO Martinez also captures his vantage point of what happens when they pick § 87(2)(b) up. Beginning at the 3:06:37AM, from the 00:00-00:12 mark, PO Martinez's approaches § 87(2)(b) to pick him up and it is clear that as § 87(2)(b) is picked up, his pants are still down and his thigh area is clearly exposed. PO Martinez's hand is seen grabbing his pants, and they begin to walk § 87(2)(b) to the police vehicle. (Board Review 22)

PO Martinez testified that after § 87(2)(b) was handcuffed on the ground, he called for a unit to transport § 87(2)(b) back to the Transit Bureau District 01 stationhouse. While waiting, the officers stood around § 87(2)(b) watching him, making sure he was secure. § 87(2)(b) was on the ground and he moved around several times while waiting and complaining that he was pepper sprayed. § 87(2)(b) was fully clothed, but there was a brief period of time, during the struggle as he was squirming away, his pants came down to his knee area, exposing his buttocks and testicles. PO Martinez never pulled § 87(2)(b)'s pants down or observed any officer do so. PO Martinez did not pull § 87(2)(b)'s pants up, until they lifted him up from the ground when the transport vehicle arrived. PO Martinez waited to pull his pants up because § 87(2)(b) had just been physically resistant during the arrest. Additionally during the time they were waiting for transport, § 87(2)(b) was still agitated; he was screaming random, illogical statements suggesting that the police threatened him. PO Martinez did not feel safe in going close to him and trying to help him pull his pants up during the time they were waiting for transport. After § 87(2)(b) was handcuffed on the ground, § 87(2)(b) was not making any physical movements. PO Martinez did not recall if covering § 87(2)(b)'s exposed area was discussed with his partners and he stated no officer ever tried to cover § 87(2)(b)'s exposed area while they were waiting for transport. When



the transport vehicle arrived, PO Martinez picked § 87(2)(b) up from the ground and picked up his pants. He felt safe doing that at this point since they had back-up. No officer touched § 87(2)(b) after he was handcuffed until § 87(2)(b) was picked up from the ground.

PO Martinez was presented with his Body-worn camera footage which depicted § 87(2)(b) laying on the ground with his private parts exposed. Upon seeing this, and when his attention was brought to the fact that § 87(2)(b) was not making any physical movements while handcuffed on the ground, PO Martinez stated he did not try to pull his pants during that time because they had just finished handcuffing § 87(2)(b) and the officers were dealing with the after effects of the pepper spray, and since § 87(2)(b) had just physically resisted during the handcuffing process, PO Martinez didn't trust § 87(2)(b)'s movements. PO Martinez's attention was then brought to the part of the footage when he lifted § 87(2)(b) up from the ground, which was six minutes later. PO Martinez confirmed that only at this time did he help lift § 87(2)(b)'s pants up.

Sgt. Rodriguez's testified that he did not pull up § 87(2)(b)'s pants during the wait because everything happened quickly and because it would have been difficult to pull his pants up while he was laying on the ground. Since transport arrived on scene quickly after they were called, his exposed areas were only exposed for a couple seconds. Sgt. Rodriguez was presented with his Body-worn camera footage. After establishing that § 87(2)(b) was laying on the ground with his private areas exposed for approximately eight minutes, Sgt. Rodriguez did not recall the wait being that long and stated he did not know why he did not pick up his pants.

PO Oropeza-Zuniga testified that after § 87(2)(b) was successfully handcuffed, all of the officers, stood closely over and around § 87(2)(b) watched him and guarded his body to make sure he didn't escape. PO Oropeza-Zuniga never saw § 87(2)(b)'s buttocks or testicles. PO Oropeza-Zuniga was shown her own Body-worn camera footage which depicted her vantage point. She was shown a portion of the footage, in which, § 87(2)(b) is shown laying on the ground in a crotched position and his pants are visibly lowered. Upon seeing this, PO Oropeza-Zuniga stated she did not see that while on scene and did not know his pants were lowered during this time. When it was confirmed that she previously testified to watching and guarding § 87(2)(b) during this time, PO Oropeza-Zuniga stated when she was looking at § 87(2)(b) she did not see that his pants were lowered. She was just watching him to make sure he did not run away.

PO Ting also testified that he did not recall observing § 87(2)(b)'s pants down at any time during this incident, and did not recall observing his private areas, including his buttocks and testicles, exposed. PO Ting was shown his own Body-worn camera footage which shows his vantage point in regards to § 87(2)(b)'s pants being lowered. Upon seeing the footage, PO Ting stated he did not recall seeing his pants down. PO Ting confirmed that during the wait for transport, he was looking at § 87(2)(b) to make sure he was secure. PO Ting was also shown Sgt. Rodriguez's Body-worn camera footage and upon being shown the portion where § 87(2)(b)'s buttocks and testicles are clearly exposed, PO Ting stated he did not see § 87(2)(b) from that angle. PO Ting confirmed that he was standing right next to § 87(2)(b) and looking down upon him, and acknowledged that from the footage it seems that PO Ting could have seen that § 87(2)(b)'s pants

were down, but PO Ting did not recall if he saw that or not. PO Ting did not know why they did not pick up § 87(2)(b)'s pants during this time.

Although PO Oropeza-Zuniga testified to not seeing § 87(2)(b)'s pants down and PO Ting testified to not recalling seeing § 87(2)(b)'s pants down, the video footage documented above, clearly shows that from their own vantage points, § 87(2)(b)'s pants being in the lowered state to his knee area, was clearly visible. The video footage also shows many points during this incident when both officers looked down at § 87(2)(b). Even by these officers' own testimonies, both officers acknowledged watching § 87(2)(b) closely during the approximate eight-minute wait for transport. § 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

The Police Department is committed to accomplishing its mission of protecting the lives and property of all citizens of New York City by treating every citizen with compassion, courtesy, professionalism, and respect. In partnership with the community, the Department pledges to: Value human life, respect the dignity of each individual, and render our services with courtesy and civility. *NYPD Patrol Guide 200-02* (Board Review 12)

§ 87(2)(b) was laying on the ground handcuffed with his buttocks and testicles exposed for approximately eight minutes on a public sidewalk in front of an occupied food truck. Several civilians walked past this incident, including one who had an extended conversation with Sgt. Rodriguez and PO Martinez, while facing § 87(2)(b)'s exposed private areas. Sgt. Rodriguez's only explanation for this was, "I do not know", while PO Martinez stated he did not help § 87(2)(b) pull up his pants because § 87(2)(b) had previously been physically resistant and he did not trust § 87(2)(b)'s movements, PO Martinez also testified that while on the ground, § 87(2)(b) did not make any physical movements - and the video footage corroborated this. No steps were taken by any officer to try and help § 87(2)(b) during this time: no officer tried to speak to § 87(2)(b) in an effort to inform him that they wanted to help pull up his pants, no officer tried to block the area off so civilians would not be able walk by the incident and have a clear view of § 87(2)(b) and since PO Martinez mentioned officer safety being an issue in getting too close to § 87(2)(b) no officer ever tried to cover § 87(2)(b)'s private areas by covering it with something or draping something over § 87(2)(b)'s lower half- § 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(b) The officers involved in this incident never attempted to help § 87(2)(b) pull up his pants, until eight minutes later, when they were required to pick him up from the ground to walk him to the vehicle. § 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

**Civilian and Officer CCRB Histories**

- This is the first complaint to which § 87(2)(b) has been a party. (Board Review 13)
- Sgt. Rodriguez has been a member of service for eighteen years and has been a subject in seven CCRB complaints and twelve allegations, one of which were substantiated.
  - 201808018 involved an allegation of physical force which was exonerated; and an allegation of refusal to obtain medical treatment which was substantiated.
- PO Martinez has been a member of service for nineteen years and has been a subject in five CCRB complaints and thirteen allegations, none of which were substantiated.
- PO PO Oropeza-Zuniga has been a member of service for three years and this is her first CCRB complaint to which she has been a subject.
- PO Ting has been a member of service for three years and this is his first CCRB complaint to which he has been a subject.

**Mediation, Civil and Criminal Histories**

- This case was unsuitable for Mediation.
- On March 13, 2019, a request was made determine if a Notice of Claim was filed in regards to this incident. Confirmation from the Office of the New York City Comptroller will be added to the case file upon receipt.
- According to the Office of Court Administration, in regards to the arrest for this incident, on § 87(2)(b), § 87(2)(b) pled guilty to petit larceny, and paid fines. (Board Review 14).
- § 87(2)(b) [REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

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Squad No.: \_\_\_\_\_

Investigator: \_\_\_\_\_  
Signature Print Title & Name Date

Squad Leader: \_\_\_\_\_  
Signature Print Title & Name Date

Reviewer: \_\_\_\_\_  
Signature Print Title & Name Date